IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.4.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.167 of 2006

Janathkumar @ Kumar Petitioner

vs.

1. The Secretary to the Government,
Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.

2. The District Magistrate and
District Collector,
Coimbatore District,
Coimbatore. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 10.6.2005 in Cr.M.P.No.19/G/2005/E4 against the detenu viz., Janathkumar @ Kumar now confined in Central Prison, Coimbatore set aside the same, direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.Abudu Kumar Rajarathinam,
Govt. Advocate (Crl. Side)

WEB COPY

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner himself is the detenu and he challenges the impugned order of detention, dated 10.6.2005, detaining him as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

https://hcservices.ecourts.gov.in/hcservices/

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3.At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu.

4. The particulars furnished by the learned Government Advocate show that the representation of the detenu was received by the Government on 25.1.2006. Subsequently, remarks were called for on 27.1.2006 and the same were received on 7.2.2006. The File was dealt with by the Under Secretary and Deputy Secretary on 8.2.2006. Finally, the Minister for Prohibition and Excise passed orders on 10.2.2006. However, the rejection letter was prepared only on 17.2.2006. The said letter was sent to the Central Prison for service on 20.2.2006 and served to the detenu on 22.2.2006.

5. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 10.2.2006, there is no reason for taking time till 17.2.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we are of the view that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ssk.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1. The District Magistrate and District Collector,
   Coimbatore District, Coimbatore.

2. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai 600 009.

3. The Superintendent, Central Prison,
   Coimbatore. (In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ 1 cc to Tmt. A. Indirani, Advocate SR No.20876

AK(CO)
SR/3.5.2006 HCP. No.167/2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/